

KEKER & VAN NEST LLP  
ROBERT A. VAN NEST - #84065  
rvannest@kvn.com  
CHRISTA M. ANDERSON - #184325  
canderson@kvn.com  
DANIEL PURCELL - #191424  
dpurcell@kvn.com  
633 Battery Street  
San Francisco, CA 94111-1809  
Telephone: 415.391.5400  
Facsimile: 415.397.7188

KING & SPALDING LLP  
DONALD F. ZIMMER, JR. - #112279  
fzimmer@kslaw.com  
CHERYL A. SABNIS - #224323  
csabnis@kslaw.com  
101 Second St., Suite 2300  
San Francisco, CA 94105  
Tel: 415.318.1200  
Fax: 415.318.1300

KING & SPALDING LLP  
SCOTT T. WEINGAERTNER (*Pro Hac Vice*)  
sweingaertner@kslaw.com  
ROBERT F. PERRY  
rperry@kslaw.com  
BRUCE W. BABER (*Pro Hac Vice*)  
1185 Avenue of the Americas  
New York, NY 10036  
Tel: 212.556.2100  
Fax: 212.556.2222

IAN C. BALLON - #141819  
ballon@gtlaw.com  
HEATHER MEEKER - #172148  
meekerrh@gtlaw.com  
GREENBERG TRAURIG, LLP  
1900 University Avenue  
East Palo Alto, CA 94303  
Tel: 650.328.8500  
Fax: 650.328-8508

Attorneys for Defendant  
GOOGLE INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

Case No. 3:10-cv-03561-WHA

**DECLARATION OF DAVID ZIMMER IN  
SUPPORT OF ORACLE AMERICA,  
INC.'S ADMINISTRATIVE MOTION TO  
FILE DOCUMENTS UNDER SEAL (DKT.  
NO. 592)**

Judge: Hon. William Alsup

Date Comp. Filed: October 27, 2010

1 I, David Zimmer, declare as follows:

2 1. I am an associate in the law firm of Keker & Van Nest LLP, counsel to Google  
3 Inc. ("Google") in the present case. I submit this declaration in support of Oracle America Inc.'s  
4 ("Oracle") Administrative Motion to File Under Seal Portions of Its Reply To Google Inc.'s  
5 Opposition To Motion To Exclude Portions of The Expert Reports of Gregory K. Leonard and  
6 Alan J. Cox (Dkt. No. 592). I have knowledge of the facts set forth herein, and if called to testify  
7 as a witness thereto could do so competently under oath.

8 2. Oracle moves to file under seal the following documents, which I have reviewed:

- 9 • Exhibits A, B, and C to the Declaration of Fred Norton (Dkt. No. 594) ("Norton  
10 Decl.")<sup>1</sup>; and
- 11 • Portions of Oracle's Reply To Google Inc.'s Opposition To Motion To Exclude  
12 Portions of The Expert Reports of Gregory K. Leonard and Alan J. Cox (Dkt. No.  
13 593).

13 3. Exhibit A to the Norton Decl. (Dkt. No. 594) contains excerpts from the  
14 deposition of Google's expert Dr. Gregory K. Leonard, taken October 28, 2011. These excerpts  
15 contain discussions of Dr. Leonard's expert report in this case. The Court previously has granted  
16 a request to file Dr. Leonard's report under seal (Dkt. No. 583). The deposition excerpts  
17 containing discussions of Dr. Leonard's report, like the report itself, contain information that has  
18 been designated HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY pursuant to the  
19 stipulated protective order in this case. The excerpts contain sensitive, non-public information  
20 about Google's consideration of alternatives to the intellectual property at issue in this lawsuit.  
21 Google does not make this information available to the public. Public disclosure of this  
22 confidential information would cause great and undue harm to Google, and place it at a  
23 competitive disadvantage.

24 4. Exhibit B to the Norton Decl. (Dkt. No. 594) contains excerpts from the  
25 deposition of Google's expert Dr. Alan J. Cox, taken October 26, 2011. These excerpts contain  
26 discussions of Dr. Cox's expert report in this case. The Court previously has granted a request to  
27 file Dr. Cox's report under seal (Dkt. No. 583). The deposition excerpts containing discussions

28 <sup>1</sup> On information and belief, Oracle's Administrative Motion to Seal mistakenly refers to the

1 of Dr. Cox's report, like the report itself, contain information that has been designated HIGHLY  
2 CONFIDENTIAL – ATTORNEY'S EYES ONLY pursuant to the stipulated protective order in  
3 this case. The excerpts contain sensitive, non-public information about Google's consideration  
4 of alternatives to the intellectual property at issue in this lawsuit. Google does not make this  
5 information available to the public. Public disclosure of this confidential information would  
6 cause great and undue harm to Google, and place it at a competitive disadvantage.

7 5. Google does not request sealing Exhibit C of the Norton Decl. (Dkt. No. 594).  
8 Nor does Google request sealing of the redacted portions of Oracle's Reply Brief (Dkt. No. 593).

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10 I declare under penalty of perjury that the foregoing is true and correct and that this  
11 declaration was executed at San Francisco, California on November 8, 2011.

12  
13 By:   
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DAVID ZIMMER

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Norton Decl. as the Declaration of Meredith Dearborn (Dkt. No. 592).